

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE NORTHERN DISTRICT OF MISSISSIPPI**

IN THE MATTER OF:

CHAPTER 13 CASE NO.:

JEFFREY BAKER

18-12631-JDW

OBJECTION TO CONFIRMATION

COMES NOW Locke D. Barkley, Chapter 13 Trustee, by and through counsel, and files this Objection to Confirmation (the "Objection") and in support states as follows:

1. The Debtor initiated this proceeding with the filing of a voluntary petition for relief on July 9, 2018. The Chapter 13 plan (Dkt. #6) (the "Plan") was filed that same day.

2. The Debtor is below median income and has proposed a plan term of 60 months with no distribution to nonpriority unsecured creditors.

3. The Debtor has not remitted any payments to the Trustee since the case was filed. The Debtor did not comply with §1326(a)(1); therefore, the requirement of §1325(a)(1) is not met.

4. The Debtor has not yet filed his 2017 tax returns. While the Trustee acknowledges that the returns are not yet due (the Debtor obtained an extension until October 15, 2018, to file the returns), the Trustee raises this issue as the deadline for objecting to confirmation will pass prior to the due date for the filing of the returns.

5. The Plan proposes that the mortgage claim of Caliber Home Loans will be treated pursuant to §1322(b)(5) in Section 3.1(a), with the Debtor to maintain direct the continuing monthly mortgage payment and the prepetition arrearage cured through Trustee disbursements. The Plan stated the amount of prepetition arrearage to be \$10,500.00 which, based upon a monthly payment of \$915.00, would be approximately eleven (11) months of prepetition mortgage payments which were not made by the Debtor.

6. On August 29, 2018, U.S. Bank Trust, N.A., as Trustee for LSF10 Master Participation Trust ("Caliber") filed its Proof of Claim (Clm. #2) in the total amount of \$136,686.34, which includes a prepetition arrearage of \$24,067.38. According to the Mortgage Proof of Claim Attachment the loan is contractually due for October 1, 2016, with the last payment received from the Debtor being on December 5, 2016.

7. Based upon the proven inability of the Debtor to make regular payments to Caliber, the proposal that the Debtor maintain the continuing payments direct is not feasible and not in the best interest of the Debtor, the creditors, or the bankruptcy estate. The claim of Caliber should be paid through the Plan by Trustee disbursements.

8. The Trustee alleges that the Plan is not feasible and the Debtor will be unable to make all payments due as required by §1325(a)(6).

9. The Trustee requests that confirmation of the Plan be denied. Should the Debtor be delinquent in plan payments at the time of the hearing on this Objection, the Trustee also requests that the bankruptcy case be dismissed.

WHEREFORE, PREMISES CONSIDERED, Locke D. Barkley, Chapter 13 Trustee, prays that upon notice and hearing that this Court enter its order sustaining the Trustee's Objection and for such other relief to which the Trustee and this bankruptcy estate may be entitled.

Dated: September 25, 2018

Respectfully submitted,
LOCKE D. BARKLEY, TRUSTEE

BY: /s/ W. Jeffrey Collier
W. JEFFREY COLLIER, ESQ.
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CERTIFICATE OF SERVICE

I, the undersigned attorney for the Trustee, do hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and I hereby certify that I either mailed by United States Postal Service, first class, postage prepaid, or electronically notified through the CM/ECF system, a copy of the above and foregoing to the Debtor, attorney for the Debtor, the United States Trustee, and other parties in interest, if any, as identified below.

J. Gary Massey, Esq.
For U.S. Bank & Trust, N.A.

Dated: September 25, 2018

/s/ W. Jeffrey Collier
W. JEFFREY COLLIER